IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

Crl.MC.No. 218 of 2007()

CMP.7150/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TALIPARAMBA

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PETITIONER: 3RD ACCUSED:

V.S. SHAJI, S/O.SEBASTIAN,
VELAMARKKUDIYIL, ALAKODE AMSOM,
ARANGAM DESOM, P.O.THERTHALLY,
THALIPARAMBA TALUK, KANNUR DISTRICT.

BY ADV. SRI.PROMY KAPRAKKATT
SRI.K.N.ABHILASH

RESPONDENTS: COMPLAINANT & STATE:

THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 13/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 218 of 2007

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Dated this the 13th day of February, 2007

O R D E R

The petitioner claims to be the owner entitled to possession of an autorikshaw KL 59-462. The said vehicle was seized in connection with a crime registered under the Kerala Abkari Act. The petitioner applied for release of the vehicle. It was reported that the seizure has been effected, but the vehicle had not been produced before the learned Magistrate. On the plea that the proceedings under the Abkari Act for confiscation of the vehicle has to be initiated, the learned Magistrate rejected the application for release of the vehicle.

2. The learned counsel for the petitioner submits that no action has been taken under Section 67(B) of the Kerala Abkari Act and in these circumstances he is not able to get release of the vehicle. The vehicle is being exposed unnecessarily to sun and rain. The seizure has been reported to the court. In such circumstances appropriate conditions may be imposed and the vehicle may be released to the petitioner, it is prayed.

3. Notice was given to the learned Public Prosecutor. The learned Prosecutor does not oppose the prayer. He only submits that the vehicle may be released subject to the obligation of the petitioner to produce the vehicle before appropriate authorities in proceedings under Section 67(B) of the Kerala Abkari Act.

4. I am, in these circumstances, satisfied that the vehicle can be directed to be released to the petitioner. The learned Magistrate shall impose appropriate conditions and shall release the vehicle after verifying the records in respect of the vehicle to confirm that the petitioner is the owner entitled to possess the vehicle. The conditions, inter alia, shall include a condition that the petitioner must produce the vehicle before the authorities if and when directed in proceedings under Section 67(B) of the Kerala Abkari Act.

5. This Crl.M.C. is accordingly allowed.

(R. BASANT)
Judge

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